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6 Attorneys for Plaintiff,
LISA ROSS AGBALAYA

Case assigned to
JUDGE *McL Ricart*

FILED
LOS ANGELES SUPERIOR COURT

MAY 19 2000
JOHN A. CLARKE, CLERK
H. Hinaga
BY H. HINAGA, DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

13 LISA ROSS AGBALAYA, an
14 individual,

15 Plaintiff,

16 vs.

17 THE NEW JAMES BROWN
18 ENTERPRISES, INC. a business)
19 entity form unknown; THE NEW)
20 JAMES BROWN ENTERPRISES, INC.)
- JAMES BROWN WEST, a business)
21 entity form unknown; JAMES)
BROWN, AN INDIVIDUAL; AND DOES)
22 1 THROUGH 100, INCLUSIVE,)

23 Defendants.
24

CASE NO. LC230333

COMPLAINT FOR DAMAGES FOR:

1. SEXUAL HARASSMENT/
HOSTILE WORK ENVIRONMENT;
2. SEX DISCRIMINATION;
3. WRONGFUL TERMINATION IN
VIOLATION OF PUBLIC
POLICY;
4. RETALIATION;
5. INTENTIONAL INFLICTION OF
EMOTIONAL DISTRESS; and
6. NEGLIGENT INFLICTION OF
EMOTIONAL DISTRESS

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I. INTRODUCTION

It appears that *Sex Machine* is more than simply a title to one of James Brown's many hit records; it would also appear to be a description for James Brown the man. The "Godfather of Soul," boasts to his employees that he has "bull testicles." In fact, the "Hardest Working Man in Showbusiness," who is famous for recording numerous hit records, including *The Big Payback*, *Papa's Got a Brand New Bag* and *Say It Loud*, is renown at his company, The New James Brown Enterprises, Inc., for smoking marijuana and for demanding sex from his female employees. Apparently, having sex with James Brown is a requirement of the job because, if an employee refuses Mr. Brown's sexual advances, she will be fired. Such was the fate of the plaintiff, Lisa Agbalaya. Mr. Brown repeatedly harassed Mrs. Agbalaya and propositioned her for sex, despite his knowledge that she had been happily married for 8 years and was the mother of 2 children. James Brown's sexual advances included a demand that Mrs. Agbalaya wear zebra print panties while Mr. Brown massaged her with oil. Furthermore, James Brown, who has profited from selling millions of records to the African-American community, told Mrs. Agbalaya that it was "unfortunate" that she had married a Black man because Black men are "nothing." After Mrs. Agbalaya rejected Mr. Brown's many sexual advances, Mr. Brown retaliated against Mrs. Agbalaya and ultimately fired her.

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PARTIES

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2 1. Plaintiff, Lisa Ross Agbalaya ("Mrs. Agbalaya" or
3 "Plaintiff"), is, and at all times mentioned in this complaint
4 was, a resident of Los Angeles County, California.

5 2. Plaintiff is informed and believes, and thereon
6 alleges, that Defendant, James Brown, is and at all times
7 mentioned in this complaint was, a resident of the State of
8 South Carolina. At the time of the acts alleged herein, Agbalaya
9 reported directly to Brown.

10 3. Defendant The New James Brown Enterprises, Inc.,
11 is, and at all times mentioned herein was, a business entity form
12 unknown doing business in the County of Los Angeles, State of
13 California.

14 4. Defendant The New James Brown Enterprises, Inc. -
15 James Brown West, is, and at all times mentioned herein was, a
16 business entity form unknown doing business in the County of Los
17 Angeles, State of California.

18 5. Defendants The New James Brown Enterprises, Inc.,
19 The New James Brown Enterprises, Inc. - James Brown West and
20 Brown are collectively referred to as "Defendants."

21 6. Plaintiff is unaware of the true names and
22 capacities of defendants sued herein as Does 1 through 100,
23 inclusive, and sues these defendants under such fictitious names.
24 Plaintiff will seek leave of court to amend this complaint to
25 name such defendants when their true names and capacities have
26 been ascertained. Plaintiff is informed and believes, and on
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1 that basis alleges, that each of the fictitiously named
2 defendants is in some manner responsible for the acts and
3 omissions herein alleged.

4 7. Plaintiff is informed and believes, and thereon
5 alleges, that at all times herein mentioned, each of the
6 defendants herein was the agent, servant, licensee, employee or
7 alter ego, of each of the remaining defendants, and was at all
8 times herein mentioned acting within the course and scope of said
9 relationship. Plaintiff is further informed and believes, and
10 thereon alleges, that at all times herein mentioned, each
11 business or corporate employer, through its officers, directors
12 and managing agents, and each individual defendant, including
13 without limitation, James Brown, had advance knowledge of the
14 wrongful conduct of said agents, servants, licensees, employees
15 and alter egos, and allowed said wrongful conduct to occur and
16 continue to occur, thereby ratifying said wrongful conduct, with
17 a conscious disregard of the rights and safety of persons such as
18 Plaintiff, and after becoming aware of their wrongful conduct,
19 each corporate defendant by and through its officers, directors
20 and managing agents, and each individual defendant, authorized
21 and ratified the wrongful conduct herein alleged.

23 8. In or about April, 1993, Agbalaya began her
24 employment with Defendants as the president of west coast
25 operations. Mrs. Agbalaya's principle duties and
26 responsibilities included meeting with radio station programmers
27 to insure that James Brown's music was played on radio stations

1 throughout the country. Mrs. Agbalaya also scheduled James
2 Brown's television and movie appearances, including, but not
3 limited to, his appearances in the motion pictures *Holy Man* and
4 *Blues Brothers 2000* and James Brown's appearance on the
5 soundtrack to the movie *Dead Presidents*.

6 9. At all times mentioned herein, Mrs. Agbalaya was
7 qualified for her position as president of west coast operations
8 as demonstrated by the many bonuses and positive work-related
9 comments she received.

10 10. At all times Mrs. Agbalaya performed her job
11 satisfactorily. Mrs. Agbalaya was continuously employed by
12 Defendants for almost 7 years, until approximately February,
13 2000, when, in retaliation for her rejection of James Brown's
14 highly offensive sexual demands, her employment was wrongfully
15 terminated. Defendants cited economic factors as the reason for
16 Mrs. Agbalaya's discharge. The stated reason for the termination
17 was a pretext for discrimination on account of Mrs. Agbalaya's
18 gender.
19

20 11. Between approximately August, 1999, and February,
21 2000, James Brown engaged in a consistent pattern of
22 discrimination and harassment because of Mrs. Agbalaya's gender.
23 This discrimination and harassment took the form of unwanted
24 sexual remarks and advances by James Brown against Mrs. Agbalaya
25 and included, but were not limited to, the following examples:

26 (a) In approximately November, 1999, only a short time
27 after James Brown had surgery to treat his prostate cancer, Mrs.
28

1 Agbalaya attended a dinner party with James Brown and Defendants'
2 employees. While eating dinner, James Brown told Mrs. Agbalaya
3 that the government gave him "bull testicles" so he could come
4 "harder and stronger than ever."

5 (b) During a business trip, James Brown, who was dressed in
6 sweatpants with no shirt on and who had been smoking marijuana,
7 approached Mrs. Agbalaya. James Brown presented Mrs. Agbalaya
8 with a pair of zebra print underwear and demanded that she wear
9 them while he massaged her with oil telling her "I want to rub
10 you down." When Mrs. Agbalaya rejected James Brown's demand,
11 James Brown told Mrs. Agbalaya that he just wanted to make her
12 "feel good." James Brown also repeatedly attempted to improperly
13 touch Mrs. Agbalaya by hugging her and holding her around her
14 waist. Mrs. Agbalaya attempted to discourage James Brown's
15 advances but could not leave the premises where there were guard
16 dogs and an electronic fence. The following day, Mrs. Agbalaya
17 was sent back to California at James Brown's insistence. When
18

19 (c) Following Mrs. Agbalaya's return to California,
20 James Brown attempted to make Mrs. Agbalaya sign a disclaimer
21 which provided that she would never sue Defendants for any claim.
22 Mrs. Agbalaya declined to sign the disclaimer.

23 (d) James Brown told Mrs. Agbalaya that she was "built
24 like a stallion, just right for riding."

25 (e) One day, while Mrs. Agbalaya was working in her
26 office, she received a telephone call from James Brown. During
27 the conversation, James Brown told Mrs. Agbalaya that she and her
28

1 assistant, Jenny Richard, should not change their underwear in
2 Defendant's office or in front of hotel mirrors because the
3 government was watching and would catch them.

4 (f) James Brown often told Mrs. Agbalaya he wanted her
5 to be a successful businessperson. However, he also told Mrs.
6 Agbalaya that the only way for a woman to be successful is to
7 sleep with her boss.

8 (g) James Brown repeatedly stressed to Mrs. Agbalaya
9 that it was "unfortunate" that she married a Black man because
10 Black men are "nothing" and will "never amount to anything."

11 (h) Before one of James Brown's performances, Mrs.
12 Agbalaya was in the dressing room with James Brown and some of
13 Defendants' employees. James Brown approached Mrs. Agbalaya and
14 told her that, if anything went wrong with her relationship with
15 her husband, he would marry her and take care of her sons.

16 (i) While Mrs. Agbalaya was on maternity leave, James
17 Brown told Mrs. Agbalaya's assistant, Laurice Martinez that he
18 would leave his girlfriend and Martinez could sleep with him.

19 12. When Mrs. Agbalaya complained to her superior
20 about James Brown's numerous sexual advances, Defendants
21 responded that that was simply how James Brown was. Defendants
22 did nothing to stop James Brown's discriminatory and harassing
23 conduct. Neither did Defendants assist Mrs. Agbalaya in handling
24 James Brown's outrageous conduct.

25 13. When Mrs. Agbalaya rebuffed James Brown's
26 offensive sexual advances, he retaliated against her and rejected
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1 all of the appearances that Mrs. Agbalaya booked. James Brown's
2 acts of retaliation included, but were not limited to, the
3 following:

4 (a) James Brown asked Mrs. Agbalaya to schedule him to
5 perform on New Year's Eve in 1999. Mrs. Agbalaya scheduled James
6 Brown to perform at a party hosted by President and Mrs. Clinton.
7 After Mrs. Agbalaya scheduled the performance, James Brown
8 reneged and told Mrs. Agbalaya that he had another engagement to
9 attend that evening.

10 (b) Mrs. Agbalaya scheduled James brown to perform
11 during half-time at a National Football League playoff game.
12 After Mrs. Agbalaya booked his performance, James Brown refused
13 to perform because he wanted more money for the performance.

14 (c) James Brown requested that Mrs. Agbalaya arrange
15 for him to perform at the 2000 Grammy Awards. After Mrs.
16 Agbalaya scheduled the performance, James Brown decided he did
17 not want to perform at the show.

18 (d) Mrs. Agbalaya attempted to schedule James Brown to
19 appear in a commercial for the Jack-in-the-Box fast food chain.
20 James Brown refused to appear in the commercial unless he was
21 paid \$250,000.00. James Brown subsequently told Mrs. Agbalaya's
22 assistant, Jenny Richard, that he would have appeared in the
23 commercial for only \$50,000.00

24 (e) Mrs. Agbalaya negotiated an IMAX theater video for
25 James Brown. Again, after Mrs. Agbalaya completed the
26 negotiations, James Brown reneged on the agreement because he
27

1 allegedly wanted more money for the performances.

2 14. James Brown's retaliatory acts culminated in the
3 termination of Mrs. Agbalaya's employment.

4 15. The discriminatory treatment and harassment,
5 including, but not limited to, the above-mentioned incidents,
6 were part of a concerted pattern of harassment of a repeated and
7 routine nature. James Brown's comments, innuendos and touching
8 were unwelcome, made Mrs. Agbalaya extremely uncomfortable in the
9 workplace, and created a work environment that was hostile to
10 Mrs. Agbalaya.

11 16. Defendants' discriminatory acts, as alleged above,
12 violated the California Fair Employment and Housing Act,
13 California Government Code section 12900 et seq. (the "FEHA").
14 Mrs. Agbalaya was discriminated against with respect to the terms
15 and conditions of her employment. There is a disparity between
16 the position, treatment and terms and conditions of employment of
17 Mrs. Agbalaya, who is a member of the protected class of females,
18 and the position and treatment and terms and conditions of the
19 employment of comparably qualified employees who are not female.
20

21 17. Mrs. Agbalaya applied for and has received Right
22 to Sue Letters from the California Department of Fair Employment
23 and Housing, copies of which are attached hereto as Exhibit "A."

24
25 FIRST CAUSE OF ACTION

26 (Sex Discrimination Against All Defendants Except James Brown)

27 18. Plaintiff incorporates herein by reference all of
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1 the allegations set forth in paragraphs 1 through 17 hereinabove
2 as though fully set forth at length.

3 19. Plaintiff was discriminated against with respect
4 to the terms and conditions of her employment. During the period
5 of time that Plaintiff was employed by Defendants, Defendants
6 willfully, knowingly, and intentionally discriminated against
7 Plaintiff on the basis of her gender by harassing her, providing
8 a hostile environment, by treating Plaintiff differently based on
9 her gender, by ratifying or failing to cure such acts and by
10 causing Plaintiff extreme emotional distress, leading to her
11 ultimate discharge.

12 20. As a proximate result of Defendants'
13 discriminatory action against Plaintiff, as alleged above,
14 Plaintiff has been harmed in that Plaintiff has suffered the loss
15 of wages, salary, benefits, and additional amounts of money
16 Plaintiff would have received if Plaintiff had not been
17 terminated by Defendants. As a further proximate result of
18 Defendants' discriminatory actions against Plaintiff, as alleged
19 above, Plaintiff has been harmed in that Plaintiff has suffered
20 the intangible loss of employment-related opportunities. As a
21 further proximate result of Defendants' discriminatory action
22 against Plaintiff, as alleged above, Plaintiff has been harmed in
23 that Plaintiff has suffered humiliation, mental anguish,
24 emotional and physical distress, anxiety, and has been injured in
25 the mind and body.

26 21. The wrongful conduct of Defendants set forth
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hereinabove was perpetrated upon Plaintiff intentionally, willfully, fraudulently, in conscious disregard of Plaintiff's rights and safety and with a callous indifference to the injurious consequences which were substantially certain to occur and was shameful, despicable and deplorable. Plaintiff is further informed and believes that each business or corporate employer, through its officers, directors and managing agents, and each individual defendant, including without limitation, James Brown, had advanced knowledge of the wrongful conduct set forth above and allowed said wrongful conduct to occur and continue to occur, thereby ratifying said wrongful conduct, with a conscious disregard of the rights and safety Plaintiff, and after becoming aware of their wrongful conduct, each corporate Defendant by and through its officers, directors, and managing agents, and each individual defendant, including James Brown, authorized and ratified the wrongful conduct herein alleged. Therefore, Plaintiff seeks exemplary and punitive damages against Defendants in an amount according to proof.

SECOND CAUSE OF ACTION

(Hostile Work Environment Against All Defendants)

22. Plaintiff incorporates herein by reference all of the allegations set forth in paragraphs 1 through 21 hereinabove as though fully set forth at length.

23. Defendants' actions, as alleged above, resulted in a work environment which was hostile to Plaintiff as a female,

1 and said hostile environment so permeated Plaintiff's work place
2 as to alter the conditions of Plaintiff's employment.
3 Defendants' actions, as alleged above, were based on Plaintiff's
4 sex, were unwelcome to Plaintiff and were so severe and pervasive
5 that they negatively altered Plaintiff's work place by creating
6 an environment hostile to Plaintiff as a female.

7 24. As a proximate result of Defendants' actions
8 against Plaintiff, as alleged above, Plaintiff has been harmed in
9 that Plaintiff has suffered the loss of wages, salary, benefits,
10 and additional amounts of money Plaintiff would have received if
11 Plaintiff had not been discriminated against by Defendants. As a
12 further proximate result of Defendants' actions against
13 Plaintiff, as alleged above, Plaintiff has been harmed in that
14 Plaintiff has suffered the intangible loss of employment-related
15 opportunities. Also as a further proximate result of Defendants'
16 actions against Plaintiff, as alleged above, Plaintiff has been
17 harmed in that Plaintiff has suffered physical injury and
18 sickness, humiliation, mental anguish, and emotional and physical
19 distress, and has been injured in mind and body.
20

21 25. The wrongful conduct of Defendants set forth
22 hereinabove was perpetrated upon Plaintiff intentionally,
23 willfully fraudulently, in conscious disregard of Plaintiff's
24 rights and safety and with a callous indifference to the
25 injurious consequences which were substantially certain to occur
26 and was shameful, despicable and deplorable. Plaintiff is
27 further informed and believes that each business or corporate
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1 employer, through its officers, directors and managing agents had
 2 advance knowledge of the wrongful conduct set forth above and
 3 allowed said wrongful conduct to occur, thereby ratifying said
 4 wrongful conduct, with a conscious disregard of the rights and
 5 safety of Plaintiff, and after becoming aware of their wrongful
 6 conduct, each corporate defendant by and through its officers,
 7 directors and managing agents, and each individual defendant,
 8 including James Brown, authorized and ratified the wrongful
 9 conduct herein alleged. Therefore, Plaintiff seeks exemplary and
 10 punitive damages against Defendants in an amount according to
 11 proof.
 12

13 THIRD CAUSE OF ACTION

14 (Wrongful Termination in Violation of Public Policy
 15 Against All Defendants)

16 26. Plaintiff incorporates herein by reference all of
 17 the allegations set forth in paragraphs 1 through 25 hereinabove
 18 as though fully set forth at length.

19 27. Defendant's actions, as alleged above, constitute
 20 a violation of the public policy of this State, in that the
 21 termination of Mrs. Agbalaya's employment contravenes specific
 22 constitutional and statutory provisions, including the provisions
 23 of Government Code section 12940, et seq., which expressly
 24 forbids such conduct.

25 28. As a proximate result of Defendant's wrongful
 26 actions against Plaintiff, as alleged above, Plaintiff has been
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1 harmed in that Plaintiff has suffered the loss of wages, salary,
2 benefits, and additional amounts of money Plaintiff would have
3 received if Plaintiff had not been terminated by Defendants. As
4 a further proximate result of Defendants' wrongful actions
5 against Plaintiff, as alleged above, Plaintiff has been harmed in
6 that Plaintiff has suffered the intangible loss of employment-
7 related opportunities. Also, as a further proximate result of
8 Defendants' wrongful actions against Plaintiff, as alleged above,
9 Plaintiff has been harmed in that Plaintiff has suffered
10 humiliation, mental anguish, emotional and physical distress,
11 anxiety, and has been injured in the mind and body.

12 29. The wrongful conduct of Defendants set forth
13 hereinabove was perpetrated upon Plaintiff intentionally,
14 willfully, fraudulently, in conscious disregard of Plaintiff's
15 rights and safety and with a callous indifference to the
16 injurious consequences which were substantially certain to occur
17 and was shameful, despicable and deplorable. The wrongful
18 conduct of Defendants set forth hereinabove was perpetrated upon
19 plaintiff maliciously, with the intention by Defendants to cause
20 injury to Plaintiff and was despicable conduct carried on by
21 Defendants with a willful and conscious disregard of the rights
22 and safety of Plaintiff. The wrongful conduct of Defendants set
23 forth hereinabove was also oppressive in that it was despicable
24 conduct that subjected Plaintiff to cruel and unjust hardship in
25 conscious disregard of Plaintiff's rights. Such despicable
26 conduct was base, vile and contemptible. Plaintiff is further
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1 informed and believes that each business or corporate employer,
2 through its officers, directors and managing agents, and each
3 individual defendant, including James Brown, had advance
4 knowledge of the wrongful conduct set forth above and allowed
5 said wrongful conduct to occur and continue to occur, thereby
6 ratifying said wrongful conduct, with a conscious disregard of
7 the rights and safety of Plaintiff, and after becoming aware of
8 their wrongful conduct, each corporate defendant by and through
9 its officers, directors and managing agents, and each individual
10 defendant, including James Brown, authorized and ratified the
11 wrongful conduct herein alleged. Therefore, exemplary and
12 punitive damages in a sufficient sum should be assessed against
13 Defendants.
14

15
16 FOURTH CAUSE OF ACTION

17 (Retaliation Against All Defendants)

18 30. Plaintiff incorporates herein by reference all of
19 the allegations set forth in paragraphs 1 through 29 hereinabove
20 as though fully set forth at length.

21 31. During the course of her employment, Plaintiff
22 repeatedly received compliments and bonuses because of the high
23 quality of her work. After Plaintiff rejected James Brown's
24 sexual advances, Defendants fired her.

25 32. Defendants' retaliatory acts, as detailed above,
26 toward Plaintiff in the treatment, terms and conditions of her
27 employment violated the FEHA.
28

1 33. As a proximate result of Defendants'
2 discriminatory actions against Plaintiff, as alleged above,
3 Plaintiff has been harmed in that she has suffered the loss of
4 the wages, salary, benefits, and additional amounts of money she
5 would have received if she had not been discharged and retaliated
6 against by Defendants. As a further proximate result of
7 Defendants' discriminatory actions against Plaintiff, as alleged
8 above, Plaintiff has been harmed in that she has suffered the
9 intangible loss of employment-related opportunities. Also, as a
10 further proximate result of Defendants' discriminatory actions
11 against Plaintiff, as alleged above, Plaintiff has been harmed in
12 that she has suffered humiliation, mental anguish, and emotional
13 and physical distress, and has been injured in mind and body,
14 including physical injury and sickness.

15 34. The wrongful conduct of Defendants set forth
16 hereinabove was perpetrated upon Plaintiff intentionally,
17 willfully, fraudulently, in conscious disregard of Plaintiff's
18 rights and safety and with a callous indifference to the
19 injurious consequences which were substantially certain to occur
20 and was shameful, despicable and deplorable. Plaintiff is
21 further informed and believes that each business or corporate
22 employer, through its officers, directors and managing agents,
23 and each individual defendant, including without limitation,
24 James Brown, had advance knowledge of the wrongful conduct set
25 forth above and allowed said wrongful conduct to occur and
26 continue to occur, thereby ratifying said wrongful conduct, with
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1 a conscious disregard of the rights and safety of Plaintiff, and
2 after becoming aware of their wrongful conduct, each corporate
3 defendant by and through its officers, directors and managing
4 agents, and each individual defendant, including James Brown,
5 authorized and ratified the wrongful conduct herein alleged.
6 Therefore, Plaintiff seeks exemplary and punitive damages against
7 defendants in an amount according to proof.
8

9
10 FIFTH CAUSE OF ACTION

11 (Intentional Infliction of Emotional Distress
12 Against All Defendants)

13 35. Plaintiff incorporates herein by reference all of
14 the allegations set forth in paragraphs 1 through 34 hereinabove
15 as though fully set forth at length.

16 36. At all times during which Defendants, and each of
17 them, engaged in the wrongful conduct described hereinabove,
18 Defendants were aware that there was a substantial certainty that
19 Plaintiff would be severely embarrassed, humiliated, upset,
20 distressed and damaged if she were subject to such humiliating
21 and wrongful conduct.

22 37. In spite of such awareness, Defendants, and each
23 of them, intentionally and in conscious disregard of the rights
24 and safety of Plaintiff, decided to, and in fact did, engage in
25 the extreme, outrageous, despicable wrongful conduct described
26 hereinabove. This was done by Defendants with a callous
27 indifference about any adverse effect this would have on
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1 Plaintiff and was done with a known substantial certainty that
2 Plaintiff would be severely harmed.

3 38. As a legal result of the wrongful conduct of
4 Defendants set forth hereinabove, Plaintiff has been caused to
5 become physically ill and has suffered injuries to her health,
6 strength and activity, great nervous shock, mental anguish,
7 humiliation, and extreme and severe emotional and physical
8 distress of such substantial quantity and enduring quality as no
9 reasonable person should be expected to endure, all to the damage
10 of Plaintiff in an amount to be ascertained according to proof.

11 39. Said severe emotional distress has caused and
12 continues to cause Plaintiff great mental, emotional, physical
13 and nervous pain and suffering.

14 40. The wrongful conduct of Defendants set forth
15 hereinabove was perpetrated upon Plaintiff intentionally,
16 willfully, fraudulently, in conscious disregard of Plaintiff's
17 rights and safety and with a callous indifference to the
18 injurious consequences which were substantially certain to occur
19 and was shameful, despicable and deplorable. Plaintiff is
20 further informed and believes that each business or corporate
21 employer, through its officers, directors and managing agents,
22 and each individual defendant, including James Brown, had advance
23 knowledge of the wrongful conduct set forth above and allowed
24 said wrongful conduct to occur and continue to occur, thereby
25 ratifying said wrongful conduct, with a conscious disregard of
26 the rights and safety of Plaintiff, and after becoming aware of
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1 their wrongful conduct, each corporate defendant by and through
2 its officers, directors and managing agents, and each individual
3 defendant, including James Brown, authorized and ratified the
4 wrongful conduct herein alleged. Therefore, exemplary and
5 punitive damages in a sufficient sum should be assessed against
6 Defendants.

7
8 SIXTH CAUSE OF ACTION

9 (Negligent Infliction of Emotional Distress
10 Against All Defendants)

11 41. Plaintiff incorporates herein by reference all of
12 the allegations set forth in paragraphs 1 through 40 hereinabove
13 as though fully set forth at length.

14 42. Defendants have a duty to their employees to
15 maintain a working environment free of discrimination, harassment
16 and hostility, and not to retaliate against them for engaging in
17 conduct which is protected under the laws of this State. As
18 described above, Defendants breached their duty by failing to
19 maintain a working environment free of discrimination, harassment
20 and hostility, and by retaliating against Plaintiff for engaging
21 in such protected conduct. Defendants' breach of duty directly
22 caused physical injuries and emotional trauma to Plaintiff and
23 damages her.

24 43. As set forth more particularly above, Plaintiff
25 has suffered anger, grief, disappointment and other severe
26 emotional distress. Plaintiff's distress is a direct and
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1 proximate result of the negligent conduct of Defendants.

2 44. Said severe emotional distress has caused and
3 continues to cause Plaintiff great mental, emotional, physical
4 and nervous pain and suffering.

5 45. As a legal result of the wrongful conduct of
6 Defendants set forth hereinabove, Plaintiff has been caused to
7 become physically ill and has suffered injuries to her health,
8 strength and activity, great nervous shock, mental anguish,
9 humiliation, and extreme and severe emotional and physical
10 distress of such substantial quantity and enduring quality as no
11 reasonable person should be expected to endure, all to the damage
12 of Plaintiff in an amount to be ascertained according to proof.

13 WHEREFORE, Plaintiff prays for relief as set forth
14 hereafter:

15 AS TO THE FIRST, SECOND, FOURTH, FIFTH AND SIXTH CAUSES OF
16 ACTION:

- 17 1. Damages according to proof but believed to be in
18 excess of \$1,000,000.00;
19 2. Attorney's fees;
20 3. Costs;
21 4. Prejudgment interest;
22 5. Punitive damages; and
23 6. Such other and further relief as the court deems
24 just and proper.

25 AS TO THE THIRD CAUSE OF ACTION:

- 26 1. Damages according to proof but believed to be in
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1 excess of \$1,000,000.00;

2 2. Costs;

3 3. Prejudgment interest;

4 4. Punitive damages; and

5 5. Such other and further relief as the court deems
6 just and proper.

7 DATED: May 19, 2000

8 McMILLAN & HERRELL
9 MATTHEW B. HERRELL
10 SHELLY D. McMILLAN
11 ROSLYNN E. ANDERSON

12 BY: Roslynn E. Anderson
13 Roslynn E. Anderson
14 Attorneys for Plaintiff,
15 LISA ROSS AGBALAYA
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